IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3793 of 2007()

C.C.NO.792 OF 2006 OF J.F.C.M, KOLENCHERY

PETITIONER: ACCUSED

M.A.VENU ,S/O.AYYAPPAN
MANAYAPPATTU HOUSE,BRAHMAPURAM,
ERNAKULAM DISTRICT.

BY ADV. SMT.K.S.SAIRA
SRI.A.ANILKUMAR

RESPONDENTS: COMPLAINANT

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1. C.ANSAMOL,D/O.CHOTHI,
PERUMAMATTATHIL HOUSE
PINARMUNDA, PERINGALA,ERNAKULAM DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3793 of 2007

Dated this the 19th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution under Section 498 A I.P.C. The said case is pending before the learned Judicial Magistrate of the First Class, Kolanchery. The crux of the allegation in that prosecutions is that the petitioner, the husband of the defacto complainant (the 1st respondent) has been guilty of matrimonial cruelty of the culpable variety against the 1st respondent. Cognizance has been taken. The matter is pending before the learned Magistrate. But during the pendency of the said proceedings, parties have settled their disputes. The 1st respondent has compounded the offence allegedly committed by the petitioner. The petitioner and the 1st respondent have together come before this Court through counsel to report such settlement and composition. The 1st respondent is represented by Advocate Suma.G. The counsel undertakes to file vakalat forthwith. She asserts that the matter has been settled between the parties and the 1st respondent has compounded the offence allegedly committed by the petitioner against the 1st respondent.

2. I am satisfied from the submissions made at the Bar and from the assertions in the Crl.M.C that the parties have willingly and voluntarily settled their disputes. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be brought about. Counsel for the 1st respondent who appears for her before the Family Court also submits that all the disputes have been settled and the parties have decided to dissolve the marriage and separate. An order of divorce has already been obtained also, submit both counsel.

3. Offence under Section 498 A I.P.C is not legally compoundable. Counsel in these circumstances rightly place reliance on the decision in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are wide and sweeping and can be pressed into service when the interests of justice so demand. The interests of justice, it is held, may at times transcend the interests of mere law and in such circumstances, the provisions of Section 320 Cr.P.C cannot be

reckoned as a fetter on the powers of the Court under Section 482 Cr.P.C.

4. I am satisfied that this is an eminently fit case where the said dictum can be invoked and the proceedings brought to premature termination.

5. In the result, this Crl.M.C is, allowed. C.C.No.792 of 2006, pending before the Judicial Magistrate of the First Class, Kolanchery, is hereby quashed.

6. The learned counsel for the 1st respondent undertakes to file vakalat. Issue copy of this order only after verifying that the vakalat has been filed.

(R.BASANT, JUDGE)

rtr/-